

REMARKS

In response to the Office Action mailed December 18, 2003, Applicants respectfully request that the Examiner reconsider his rejection of the drawings and claims.

Claims 1, and 3 - 20 remain.

Claim 2 is being cancelled.

Claims 1 and 4 are being amended.

As an initial matter, the drawings stand objected to under 37 C.F.R. 1.83(a) on the grounds that the designator numeral "200" is missing from FIGURE 2. Applicants provide herewith corrected FIGURE 2 as required by the Examiner.

Claims 1, 3-4, 15-16, and 18-19 stand rejected under 35 U.S.C. § 102(b) as being anticipated by *Hollenberg* (U.S. Patent 5,694,335) (hereinafter "the *Hollenberg* reference"). Additionally, Claims 2, 5-7, 9-14, 17 and 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable the *Hollenberg* reference in view of *Chen, et al.* (U.S. Patent 6,323,866) (hereinafter "the *Chen* reference").

Anticipation rejections under 35 U.S.C. § 102(e) require identity of invention. In other words, the Examiner has the burden of identifying, *prima facie*, each and every feature of each and every claim rejected as anticipated in a single prior art reference. The Examiner has failed to meet this burden with regards to the anticipation rejections of Claims 1, 3-4, 15-16, and 18-19.

Furthermore, Applicants respectfully submit that an Examiner can only satisfy the burden of obviousness in light of combination only by showing some objective teaching leading to the combination. Broad conclusory statements regarding the teaching of multiple references standing alone are not evidence; there must be particular findings regarding the locus of the suggestion, teaching, or motivation to combine prior art references. *In re Dembiczak*, 50 USPQ2d 1614, 1617 (Fed. Cir. 1999). Additionally, while an Examiner may take Official Notice of information of a notorious character to "fill

in gaps" in a rejection, *facts so noticed should not comprise the principle evidence on which the rejection is base*. M.P.E.P. §2144.03 (Emphasis added).

Contrary to the Examiner's assertion, there is no teaching or suggestion in either the *Hollenberg* or *Chen* references to perform programming of a flash memory via a wireless link. Furthermore, while flash ROM are well-known in the art, as asserted by the Examiner, the Examiner has not otherwise provided facts as to the state of the art which teach or suggest wireless programming of flash memory.

Specifically, the *Hollenberg* reference only discloses a system in which a remote terminal 20 is utilized to program network base station 1. The type of memory device utilized in the program memory identified in Figure 1 and Col. 8, Lines 53 – 63, of the *Hollenberg* is not disclosed. Similarly, the *Hollenberg* reference discloses a memory 23 in FIGURE 8, and at Col. 9, Lines 46 – 64, but does not describe memory 23 as being a flash memory.

The *Chen* reference does not teach or suggest any type of wireless programming at all, and in particular does not teach or suggest wireless programming of a flash memory.

Furthermore, neither the *Hollenberg* nor *Chen* references recognizes the advantages of wireless flash memory programming, including the elimination of the need to physically transport the flash memory between the development system/programming hardware during testing or production, the ability to efficiently perform field programming to update or correct stored firmware, and the reduction in the wear and tear on the slots and pins of the flash memory and associated board.

No new matter has been added; the application has been merely amended to more particularly point out and distinctly claim the subject matter Applicants believe is inventive.

Applicants respectfully submit that the Claims as they now stand are patentably distinct over the art cited during the prosecution thereof.

ATTORNEY DOCKET NO
1102 - CA (P137US)

PATENT
U.S. No. 10/365,633

With the addition of no new claims, no additional filing fees are due. However, the Commissioner is hereby authorized to charge any fees or credit any overpayment to Deposit Account Number 23-2426 of WINSTEAD SECHREST & MINICK P.C.

If the Examiner has any questions or comments concerning this paper or the present application in general, the Examiner is invited to call the undersigned at (214) 745-5374.

Respectfully submitted,
WINSTEAD SECHREST & MINICK P.C.
Attorneys for Applicants

Dated: 5-12-04

By: James J. Murphy
James J. Murphy
Reg. No. 34,503

P. O. Box 50784
Dallas, Texas 75201
(214) 745-5374